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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Petition of US WEST Communications, Inc.)

for Forbearance from Regulation as a)

CC Docket No. 98-157

Dominant Carrier in the Phoenix, Arizona)

MSA)

COMMENTS

BellSouth Telecommunications Inc., ("BellSouth") hereby submits the following
Comments on US WEST Communications Inc.'s ("US WEST") petition requesting forbearance
from regulation as a dominant carrier in the provision of high capacity services in the Phoenix,
Arizona MSA.

On August 24, 1998, US WEST submitted its petition requesting that the Commission
exercise its forbearance authority so as to treat US WEST as a nondominant carrier with respect
to its provision of high capacity services in the Phoenix, Arizona MSA. The Communications
Act, as amended by the Telecommunications Act of 1996, confers upon the Commission a
powerful procompetitive tool—the ability to forbear from applying any and all of the
Commission's regulations or the Act's requirements.¹ Forbearance is an essential component of
the deregulatory framework that the Telecommunications Act of 1996 put in place. So

¹ 47 U.S.C. § 160. The only limitation on the Commission's forbearance authority is that it
"may not forbear from applying the requirements of sections 251(c) or 271 under subsection of
(a) of this section until it determines that those requirements have been fully implemented." 47
U.S.C. § 160(e).

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significant is the role of forbearance to achieving Congress' goals, that forbearance is not discretionary but mandatory upon specific findings by the Commission.²

Thus, where regulation is no longer necessary to ensure reasonable rates, to protect consumers or to promote the public interest, it was Congress' intent that the Commission dispense with the application of such regulation and that the Commission permit the marketplace to operate free of regulatory distortions and encumbrances. Without question, US WEST's petition presents the necessary factual predicate for the Commission to exercise its forbearance authority.

Before the Telecommunications Act of 1996 was enacted, the Commission promulgated expanded interconnection rules for the express purpose of augmenting competition in the high capacity transport market.³ Prior to the enactment of the expanded interconnection rules in 1992, competitive access providers ("CAPs") had been deploying fiber networks competing with local exchange carriers' provision of dedicated transport services. The expanded interconnection rules enabled CAPs to collocate their transmission equipment in the local exchange carrier's central

² The Commission shall forbear from applying any regulation or provision of the Communications Act if it determines that:

(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;

(2) enforcement of such regulation or provision is not necessary for the protection of consumers; and

(3) forbearance from applying such provision or regulation is consistent with the public interest.

47 U.S.C. § 160(a)(1)-(3).

³ In the Matter of Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, *Report and Order and Notice of Proposed Rulemaking*, FCC Rcd 7369 (1992), recon. 8 FCC Rcd 127 (1992), vacated in part and remanded sub nom. Bell Atlantic v. FCC, No. 92-1619 (D. C. Cir., June 10, 1994); recon., 8 FCC Rcd 7341 (1993).

office, facilitating the CAPs ability to connect to a local exchange carrier's customer and to displace the local exchange carrier for some or all of the dedicated transport services that it provides.

The Commission's expanded interconnection policy has been highly successful in establishing a competitive market for high capacity transport services. Local exchange carriers have long provided the Commission with evidence of the competitive nature of the transport market.⁴ This evidence alone demonstrates the strength of competition for high capacity transport services and is sufficient to warrant substantial regulatory relaxation for such services. The success of alternative transport providers and the consolidation of MCI and WorldCom and the pending consolidation of AT&T and Teleport have dramatically and permanently altered the competitive structure and performance of the high capacity transport market. Unfortunately, the Commission's regulatory approach has significantly lagged behind the changing market environment, leaving incumbent local exchange carriers at a significant competitive disadvantage vis à vis their competitors.

US WEST's petition provides the Commission an opportunity to take a step to eliminate the competitive gap that unnecessary regulation has created between incumbent local exchange carriers and their competitors. The supporting documentary evidence accompanying US WEST's petition clearly exceeds that which is necessary to meet the statutory criteria for forbearance. US WEST has conclusively demonstrated that it has no market power in the

⁴ Comments filed in connection with CC Docket No. 94-1 initially presented the case for relaxing the regulation of dedicated transport services. *See e.g.*, Comments of BellSouth Telecommunications Inc., CC Docket No. 94-1, May 9, 1994, Attachments 2 and 3. Since that time, evidence of the burgeoning competition from CAPs has continuously been provided to the Commission. *See e.g.*, Comments of BellSouth Corporation and BellSouth Telecommunications Inc., CC Docket No. 96-262, January 29, 1997, Attachment 1.

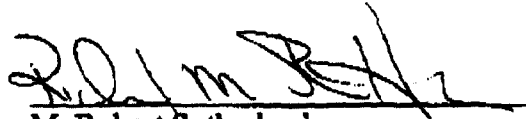
Phoenix, Arizona MSA and that regulation is no longer necessary to protect the interests of consumers. In these circumstances, continued regulation ceases to serve the public interest. To the contrary, continued regulation serves to promote the financial interests of US WEST's competitors rather than full, fair and robust economic competition. Such a perverse result ultimately is to the detriment of the consumer.

Accordingly, for the reasons discussed above, the Commission should act quickly and grant US WEST's petition.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

By:



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Date: October 7, 1998

CERTIFICATE OF SERVICE

I do hereby certify that I have 7th day of October 1998 served the following parties to this action with a copy of the foregoing COMMENTS by hand delivery or by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties listed below.

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*** VIA HAND DELIVERY**